

REMARKS

Claims 1-15, 17-19, 22-24 and 28 are pending. Claims 1 and 22 have been amended. No new matter has been added.

Claims 22-24 and 28 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2001/0018660 to Sehr (“Sehr”). Claims 1-15 and 17-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sehr in view of U.S. Patent No. 5,671,279 to Elgamal (“Elgamal”).

Rejection of Claims 22-24 and 28 under 35 U.S.C. § 102(e)

Claims 22-24 and 28 are rejected under 35 U.S.C. § 102(e) as being anticipated by Sehr. This rejection is respectfully traversed.

On page 2 of the Office Action, the Examiner asserts that Sehr “further discloses storing the payment information from the programmable memory device in a memory portion of the merchant’s terminal for future processing of the financial transaction along with at least one other financial transaction along with at least one other financial transaction and a second programmable memory device issued to a merchant for storing information related to a plurality of financial transactions from a plurality of customers, wherein the programmable device is a smart card or a terminal.” The Examiner cites paragraphs [0024], [0030], and [0032] for support of this assertion.

Based upon the Decision on Appeal, claim 22 was amended to recite “storing the payment information [in a] merchant’s terminal.” Paragraph [0024] recites the use of a portable visitor card device, but does not discuss a merchant’s terminal or the storage of information involving a transaction with the portable visitor card device. Paragraph [0030] recites the use of databases (10, 20, 30) to store data, but these databases are not a merchant’s terminal. In fact, para. [0030] explains that these databases “are associated with the plurality of *remote* system entities.” (emphasis added). Paragraph [0032] recites that the Event Organizer allows communication of data between the card and system entities, but does not disclose storing payment information in a merchant’s terminal. Sehr’s database is not the equivalent to a terminal. In order to establish a *prima facie* case of anticipation, Sehr must disclose each and every element in the same manner as

the claimed invention. Sehr, however, does not even recite a merchant's terminal in the cited paragraphs, so it cannot establish a prima facie case.

Additionally, claim 22 has been amended herein to recite that the payment information is stored for settlement processing of the financial transaction along with at least one other financial transaction. Previously, claim 22 recited that the payment information is stored for "future processing," rather than "settlement processing." Exemplary support for this amendment can be found on pages 18-19 of the specification. Although Sehr does not disclose future processing, Sehr also does not disclose settlement processing of the financial transaction with other financial transactions. The Examiner cites to paragraphs [0024], [0030], and [0032] for a disclosure of this feature as well. However, because Sehr does not disclose a merchant's terminal, Sehr cannot disclose storing financial transactions that will be processed together for settlement. Indeed, these citations to Sehr fail to mention any settlement of a transaction. Therefore, Sehr fails to disclose each and every element of claim 22.

Claim 28 was previously amended to recite a programmable memory device of a merchant. In the Decision on Appeal, the Board stated that claim 28 did not distinguish the programmable memory device from Sehr's visitor card. As claim 28 now reads, the programmable memory device is issued to a merchant. As a result, Sehr's visitor card cannot disclose a programmable memory device for a merchant. The visitor card is for a visitor, not a merchant. Accordingly, Sehr does not disclose "a second programmable memory device issued to a merchant," as recited in claim 28.

Therefore, Sehr does not disclose each and every element of claims 22 and 28. Because claims 23 and 24 depend upon claim 22, Sehr also fails to disclose each and every element of claims 23 and 24. Thus, it is respectfully requested that this rejection be withdrawn.

Rejection of Claims 1-15 and 17-19 under 35 U.S.C. § 103(a)

Claims 1-15 and 17-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sehr in view of Elgamal. This rejection is respectfully traversed.

Claim 1 has been amended herein to recite "storing the second user's payment information in a programmable memory device of the second user for settlement

processing of the financial transaction along with at least one other financial transaction.” Accordingly, claim 1 is believed to be allowable for the same reasons set forth above with respect to claim 22. Elgamal fails to cure the deficiencies of Sehr.

Therefore, Sehr and Elgamal fail to teach each and every element of claim 1. Because claims 2-15 and 17-19 depend upon claim 1, Sehr and Elgamal also fail to teach each and every element of claims 23 and 24. Thus, it is respectfully requested that this rejection be withdrawn.

CONCLUSION

The undersigned representative respectfully submits that this application is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that the prosecution might be advanced by discussing the application with the undersigned representative, in person or over the telephone, we welcome the opportunity to do so. In addition, if any additional fees are required in connection with the filing of this response, the Commissioner is hereby authorized to charge the same to Deposit Account 19-3140.

Respectfully submitted,

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